

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.18454 of 2005

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Dated 18th AUGUST 2006

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Between:

Tummala Nageswar Rao S/o seetharamaiah
50 years, Kodali village, Ghantasala Mandal
Krishna District

... Petitioner

And:

The Joint Collector, Krishna, Machilipatnam
& 2 others

... Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.18454 of 2005

ORDER:

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This writ petition is filed seeking a Mandamus declaring the proceedings No.Rc.C.2208/98 dated 27.04.2005 of the 2nd respondent, as confirmed by the 1st respondent in his proceedings No.Rc.B1/SRA/13/2005 dated 25.07.2005, as illegal, arbitrary and violative of principles of natural justice.

2. It appears, the petitioner was appointed as a Fair Price Shop dealer of Kodali village, Ghantasala Mandal of Krishna District. Since the petitioner was involved in a crime under Section 302 of Indian Penal Code and he was convicted by the competent Court of law, authorization of the petitioner was cancelled on 06.01.1999. Aggrieved by the same, he has filed an appeal before the Joint Collector. According to the petitioner, during the pendency of the appeal before the Joint Collector, for some period, there was a stay of operation of the cancellation of the order dated 06.01.1999 and therefore, he was permitted to run the shop till 30.04.2002. In the meanwhile, the criminal appeal filed by the petitioner before this Court was allowed and the matter ended in acquittal. Therefore, he approached the Joint Collector and the Joint Collector remanded the matter to the Revenue Divisional

Officer on 30.04.2002.

3. While the matters stood thus, show cause notices dated 15.03.2005 and 12.04.2005 have been issued by the Revenue Divisional Officer, Bandar. The petitioner furnished the copies of those purported show cause notices as material papers. The purported show cause notice dated 12.04.2005 is not at all a show cause notice. It is a notice issued to the petitioner to furnish some information asked therein. Of course, the show cause notice dated 15.03.2005 is in proper form and it shows that it came to the notice of the authorities through the Mandal Revenue Officer that the petitioner is continuing as Fair Price Shop Dealer against the rules and he was asked to explain as to why the deposit amount should not be confiscated and remitted to the Government. Both these notices do not indicate any proposals for cancellation of the authorization. The petitioner gave a detailed explanation for the same.

4. Be that as it may, the cancellation order dated 27.04.2005 passed by the Revenue Divisional Officer, altogether is on different grounds and as many as four charges were leveled against the petitioner. But there is no show cause notice issued enumerating these charges they do not form part of either in the show cause notice dated 15.03.2005 or notice 12.04.2005, asking the petitioner to explain the above irregularities. But the impugned proceedings are on the footing as if some enquiry was conducted on the above charges and the charges are proved. Apart from the fact that the authorities have not explained what exactly the irregularities committed by the petitioner, when he obtained the duplicate authorization, how he has obtained that and what is the enquiry conducted in this regard are all absent. On mere premises and surmises, the Revenue Divisional Officer passed the impugned order dated 27.04.2005. Aggrieved by the same, the

petitioner preferred an appeal before the Joint Collector, Krishna at Machilipatnam. The Joint Collector also simply referred some events here and there i.e., filing of an appeal by the wife of the petitioner before the Joint Collector etc. But how the petitioner has obtained the purported duplicate authorization and how it was renewed from time to time and who was responsible for the said renewals, are not indicated anywhere or any such persons including the officers of the Revenue Divisional Office were examined in this regard. In view of the fact that the very basis of the impugned order was not the subject matter of show cause notice and no explanation was called for from the petitioner, it must be deemed that the impugned order passed by the Revenue Divisional Officer as confirmed by the Joint Collector is in gross violation of principles of natural justice.

5. Therefore, the impugned orders are liable to be set aside and accordingly the writ petition is allowed, setting aside the impugned orders passed by the respondents 1 and 2. No order as to costs.

C.V. RAMULU, J

August 18, 2006

BSS